TD 93/194 - Income tax: how should a licensed club apportion expenses when calculating its taxable income?

This cover sheet is provided for information only. It does not form part of *TD 93/194 - Income tax: how should a licensed club apportion expenses when calculating its taxable income?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part . Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: how should a licensed club apportion expenses when calculating its taxable income?

1. A licensed club is only assessable on trading income which relates to non-members and on income received from sources outside its general trading activities. This is due to the principle of mutuality that recognises that any surplus arising from contributions to a common fund created and controlled by people for a common purpose is not income. (*Bohemians Club v Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD *Case T55*.)

2. Subsection 51(1) provides that expenditure incurred in gaining or producing assessable income is an allowable deduction, except to the extent that it relates to gaining exempt income or is of a capital, private or domestic nature. Accordingly, expenses incurred by a licensed club can be classified for income tax purposes as follows:

(a) Non allowable : expenses relating specifically to members (e.g. members' badges, members' functions);

(b) Wholly allowable : expenses relating specifically to non-members (e.g. non member only promotions), expenses relating to wholly assessable income (e.g. investment expenses) and non-apportionable deductions including contributions to staff superannuation, and donations to approved funds, where the Act provides for claims to be deductible in full, and

(c) Partly allowable : expenses which cannot be identified as either member or non-member. The allowable proportion is determined by applying the non-member ratio to the expenses incurred. The formula for providing clubs with a basis for calculating the non-member ratio is as follows:

$$\frac{(B \times 75\%) + C}{([R \times S] \times T) + A}$$

Where
A= total visitors for the year of income
B= members' guests, that is those visitors who are accompanied to the club by a member and signed into the club by that member
C= A-B
R= the average number of subscribed members in the year of income
S= the average daily percentage of member attendance at the club
T= the number of trading days in the year of income

3. Clubs may, for the purposes of calculating taxable income, adopt an alternative measurement technique where there is a reasonable basis to do so (e.g. better recording system of member/non-member spending) and provided it reasonably and accurately reflects the club's income for the year in question.

4. A full discussion of these issues is contained in the Guidelines for registered and licensed clubs published by the Australian Taxation Office in May 1992.

Example:

The club's activities for the year resulted in trading income of $100,000 and investment income of $5,000. The non-member ratio for the year was 25%. Total expenses for the year was $60,000, which was broken up as follows:

(a) $52,000 being expenses which cannot be identified as either member or non-member (includes expenses for donations and staff superannuation amounting to $2,000);
(b) $5,000 member only expenses;
(c) $2,000 non-member only expenses; and
(d) $1,000 being expenses in relation to investment income.

Answer:

Gross income (from trading accounts)			*105,000*
less investment income			*5,000*
			100,000
Gross expenditure (from trading accounts)		*60,000*	
less			
member only expenditure	*5,000*		
donations and superannuation	*2,000*		
expenses in relation to investment expenditure	*1,000*		
non-member only expenditure	*2,000*	*10,000*	*50,000*
			50,000
Non-member ratio (25% of 50,000)			*12,500*
add investment income			*5,000*
			17,500
less			
donations and superannuation		*2,000*	
epenses in relation to investment income		*1,000*	
non-member only expenditure		*2,000*	*5,000*
Taxable income			*12,500*

Commissioner of Taxation
7/10/93

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Related Determinations:

Related Rulings:

Subject Ref: clubs; allowable deductions

Legislataive Ref: ITAA 51(1)

Case Ref: *Bohemians Club v. Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v. FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD Case T55

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